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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 23rd July, 1985:—

BILL No. 132 OF 1985

A Bill further to amend the Criminal Law Amendment Act, 1952.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Criminal Law Amendment (Amending) Act, 1985. Short title.

2. In sub-section (*1*) of section 11 of the Criminal Law Amendment Act, 1952, after the words "air force law", the brackets, words and figures "(including the Border Security Force Act, 1968)" shall be added. Amendment of section 11

46 of 1952.
47 of 1968.

STATEMENT OF OBJECTS AND REASONS

In accordance with clauses (*ii*) and (*iii*) of sub-rule (2) of rule 15 of the Border Security Force Rules, 1969, it is the duty of the Border Security Force to:—

(*i*) prevent trans-border crimes, unauthorised entry into or exit from the territory of India;

(*ii*) prevent smuggling and any other illegal activity.

2. In the recent past, cases have come to notice where personnel of the Border Security Force have shown connivance with smugglers and infiltrators after accepting consideration in the form of money or goods. The B.S.F. Officers whose conduct is found prejudicial to good order and discipline of the Force can be dealt with under section 40 of the Border Security Force Act, 1968, Civil offences committed by the B.S.F. personnel can be tried and punished by a Security Force Court under section 46 of the said Act.

3. Under sub-section (*1*) of section 7 of the Criminal Law Amendment Act, 1952, the offences specified in sub-section (*1*) of section 6 of that Act viz., the taking of illegal gratification by public servants are triable by Special Judges only. In Major E.G. Barsay *Vs.* State of Bombay (AIR 1961 S. C. 1762 at p. 1774), it was held by the Supreme Court that in view of the language of section 7 of the Criminal Law Amendment Act, 1952, the Special Judge had exclusive jurisdiction to try any such offence and the mere fact that any such offence might also be an offence under the Army Act would not be of any relevance to a case where the general law in express terms confers jurisdiction on a particular tribunal in respect of specified offences to the exclusion of anything contained in any other law.

4. The Criminal Law Amendment Act, 1952, was, therefore, amended through an Ordinance in 1965 which was replaced by the Criminal Law Amendment (Amending) Act, 1966, to save the jurisdiction exerciseable by the court martial or other authority under the military, naval or air force laws and to validate the trials held, proceedings taken and sentences passed by courts martial and other competent authorities under these laws.

5. B.S.F. personnel are governed by the Border Security Force Act, 1968 which is somewhat akin to the Army Act, 1950. It is proposed that the Criminal Law Amendment Act, 1952, may be amended prospectively so that the jurisdiction exerciseable by the Security Force Courts in respect of offences specified in section 6(*1*) of the Criminal Law Amendment Act, 1952, is not affected by the provision relating to trial by Special Judges in section 7 of the latter Act.

NEW DELHI;
The 12th July, 1985.

K. P. SINGH DEO.

SUBHASH C. KASHYAP,
Secretary-General.

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